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AUG 13 2004

In re Application of
Singh, et al.
Application No. 10/806,617
Filed: March 23, 2004
Attorney Docket No. ALT/P023 (A 1258)
For: METHOD AND APPARATUS FOR
PERFORMING LOGIC REPLICATION IN
FIELD PROGRAMMABLE GATE
ARRAYS

OFFICE OF PETITIONS
DECISION DISMISSING
PETITION

This is a decision on the petition filed June 24, 2004 (certificate of mailing date June 21, 2004) requesting, in effect that the Notice mailed June 10, 2004 be withdrawn and that allegedly omitted page 5 of the specification and the application papers filed on March 23, 2004 be accorded a filing date of March 23, 2004. The petition will be treated under 37 CFR 1.53(e).

The application was filed on March 23, 2004. On June 10, 2004, the Office of Initial Patent Examination mailed a “Notice of Omitted Item(s) in a Nonprovisional Application” informing petitioners that page 5 of the specification appeared to have been omitted.

Petitioners request that the whole application, including page 5 of the specification, be accorded a filing date of March 23, 2004 on the basis that 32 pages of utility application were received in the Patent and Trademark Office (PTO) on March 23, 2004, as is stated on the return receipt postcard, which was date stamped by the PTO and returned to applicants.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "patent application" will not serve as a proper receipt for each of the required components of an application or missing portions of an application if one of the components or portion of a component is found to be missing by the PTO. Each separate component should be specifically and properly itemized on the postcard. MPEP 503.

The itemized postcard in this case was **not** properly itemized. The initial reviewers compare/contrast the application papers before them to the postcard receipt.

in this case did not identify how many pages were in the specification. Therefore, the postcard receipt cannot be relied upon to prove a missing page of the specification was received.

Since page 5 cannot be proved to be among the papers filed on March 23, 2004, the application cannot be accorded a March 23, 2004 filing date with page 5 as a part of the original disclosure of this application. The petition under 37 CFR 1.53(e) is **DISMISSED**.

Petitioners may still submit page 5 and a petition under 37 CFR 1.182 requesting a filing date for the application as of the date page 5 was filed.

If petitioners do not select the above option, petitioners must either (1) file an amendment renumbering the application pages and eliminating references to page 5 prior to the first PTO action in order to avoid further delays in the examination of the application or (2) in the alternative, submit page 5 as a preliminary amendment. Any such amendment will, of course, be reviewed by the examiner for new matter compared to the original specification filed on March 23, 2004. See MPEP 608.02(a).

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 23, 2004. Page 5 will **not** be considered part of the original filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions